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## U.S. Supreme Court Upholds Arizona's Clean Water Act Program

(Phoenix, Ariz. – June 25, 2007) The United States Supreme Court today upheld the transfer of the Clean Water Act surface water program from the federal Environmental Protection Agency to the State of Arizona. The Court's decision reverses the U.S. Ninth Circuit Court of Appeals decision, which held in 2005 that the program transfer was in violation of the federal Endangered Species Act.

Arizona received authority to run the program in December 2002. The program, known as the National Pollutant Discharge Elimination System (NPDES), limits discharges of pollutants from facilities, such as wastewater treatment plants, into rivers and other surface waters in Arizona.

In December 2002, the Defenders of Wildlife and other groups challenged the transfer of the program to Arizona and petitioned the Court of Appeals to rescind the transfer. The groups argued that the transfer violated the Endangered Species Act because the EPA did not adequately account for the transfer's effect on endangered species in Arizona. The Endangered Species Act applies only to federal agency actions, not to states. The Defenders argued that the Act's protections for endangered species would not be included in permitting decisions made by the State of Arizona.

Arizona and several business groups, including the National Association of Homebuilders, moved to intervene in the case. Arizona argued that the Clean Water Act compelled the transfer of the NPDES program to Arizona, and the Endangered Species Act did not apply where another statute required that a certain decision be made by a federal agency. Ultimately, this argument prevailed in the Supreme Court.

"Arizona has invested a significant amount of time and resources in developing its surface water program," said Arizona Attorney General Terry Goddard. "We look forward to continuing to do our part to protect the waters of the State."

A copy of the U.S. Supreme Court decision is attached.

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